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## FISCAL IMPACT REPORT

SPONSOR: SJC DATE TYPED: 2/24/03 HB \_\_\_\_\_

SHORT TITLE: “Caregiver” in Kinship Guardianship Act SB 542/SJCS

ANALYST: Maloy

### APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY03	FY04	FY03	FY04		
	See Narrative		See Narrative		

### SOURCES OF INFORMATION

Responses Received From  
 Office of the Attorney General  
 Department of Health  
 Administrative Offices of the Courts  
 Children, Youth and Families Department

### SUMMARY

#### Synopsis of Bill

The Senate Judiciary Committee Substitute for Senate Bill 542 expands the policy of the state under the Kinship Guardianship Act to emphasize that, when a parent is unable or unwilling to care for a child, the child should be raised by family members, kinship caregivers or “caregivers that maintain intact sibling groups in a residential setting.”

The bill also expands the applicability of the Act to cover instances where a parent has left a child with a caregiver having limited power of attorney for six months or more.

Finally, SB 542 SJCS expands the definition of “caregiver” under the Kinship Guardianship Act to add “caregiver means:

- a nonprofit organization that;
  - a. receives no public funding;

- b. acts as a temporary or permanent guardian of children voluntarily placed in its care pursuant to a caregiver's power of attorney;
- c. is dedicated to maintaining sibling groups intact in a residential setting; and
- d. provides the children placed with it the care, maintenance and supervision consistent with the duties and responsibilities of a parent of the children."

In those instances involving a nonprofit organization "caregiver", the court is required to appoint a guardian ad litem to oversee and represent the interests of the child / children. Further, if the child placed is less than 14 years of age, the court shall review the placement every 6 months. If the child placed is 14 years of age or older, the court shall conduct an annual review of the placement of the child. This review is to assess a child's placement and make a recommendation to the courts based on the recommendations of the guardian ad litem.

### Significant Issues

1. Concern is expressed regarding the expanded definition of "caregiver" to include a non-profit corporate entity. With regard to placing a child with a non-profit corporate entity, the Children, Youth and Families Department (CYFD) states "it is hard to see how a child could have a "kinship bond" with an entity or organization." To add such entities or organizations to the definition of "kinship" is "contrary to the intent behind this law."
2. The Department of Health (DOH) asserts the bill would create a considerably different kind of caregiver, a caregiver that it is unrelated to the child (or children) by blood, affinity or other cognizable tie, such as tribal membership, previous care-giving, or quasi-parental relationship. Also, the DOH notes that residential setting is not defined. Thus, the door may be opened to impersonal, institutional placement of children in large groups, which is contrary to the policy and philosophy of long-term care in this state.

While concern is expressed by DOH regarding defining "caregiver" to include corporate entities, DOH expressly supports keeping sibling groups together.

With regard to defining "caregiver" to include corporate entities, DOH believes the Act should address a standard of care, and that the inclusion of corporate entities should be limited to organizations subject to appropriate laws and licensing regulations governing the care and well being of children and sibling groups.

3. SB 542 SJCS likely addresses the some of the concerns raised originally by CYFD and DOH because of the appointment of a guardian ad litem to oversee and represent the interests of the child, and because of the scheduled 6-month or annual reviews by the courts. However, the appointment of a guardian ad litem does not resolve the issue that a corporate entity cannot have a *kinship* bond with a child.
4. Opponents of this bill would ask whether committing children to being raised by corporate entities gives rise to issues about the love, nurturing and care that will be available. Can

children develop healthy, stable and consistent relationships within an organizational setting?  
Will children develop emotionally, physically and mentally as they should in such settings?

5. Proponents of this bill would ask whether placement with a caregiver organization is preferable to other options currently available to children that *cannot be placed* with family, kin-relations, adoptive families, or foster families.

### **FISCAL IMPLICATIONS**

There is no direct fiscal implications for the state. However, there may be secondary costs to the state if it is harder to place a “sibling groups” instead of one child at a time. This could lead to additional costs for the state in securing a home for these children. These costs are presumably outweighed by the benefits to the sibling groups.

The non-profit caregiver organizations may also ultimately require state assistance, such as medicaid benefits, food programs, education programs, and the like, at some point.

### **ALTERNATIVES**

The DOH recommends “craft[ing] a bill that provides for expansion to sibling groups and recognizes the parental limited power of attorney as a basis for kinship guardianship, but defines the residential setting to avoid, limit, or otherwise specify the authorization of an institutional setting.”

**SJM/yr**